UNITED STATES PATENT AND TRADEMARK OFFICE

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| EXAMINER |
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| ART UNIT | PAPER NUMBER |
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

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### *Response to Arguments and Amendments*

Applicant's remarks submitted on 9/8/08 have been fully considered, but were not persuasive.

With respect to claim 95, applicant argues that Campbell does not disclose an entitlement unit table because he does not disclose a table. The data transmitted as seen in Figure 11 was cited as being an entitlement unit table (EUT). The examiner respectfully maintains that the data in Figure 11 can be considered a table and more specifically an entitlement unit table. The broadest yet reasonable definition of a table is "an orderly arrangement of data". As described in column 12, lines 60-68 of Campbell, the data seen in Figure 11 are generated by a text formatter. Having been formatted, the data in Figure 11 is "an orderly arrangement of data" and can be considered a table and more specifically an EUT.

Applicant argues Campbell does not teach uniquely identifying a service package. Applicant argues that the tier code cited by the examiner as performing this function in fact does not uniquely identify a service package because it is possible for two programs to fall into the same level of access. The examiner respectfully disagrees. Applicant's example with two programs having a tier code of 11011 is flawed because a tier as used in the cable programming industry has a set and standard meaning. Tiers do not refer to individual programs, but rather to service packages and are unique from each other. For example, basic cable is a tier while a sports package or other premium programming packages are separate tiers and each package have a separate tier code or tier authorization data that uniquely identifies them. The term tier

is not used to define individual programs as applicant has attempted to do so in the

arguments. Applicant's specification even recognizes that the word tier does not refer

to individual programs, but rather to types of services (i.e. premium service or standard

service—see Description of Related Art section of specification). In short, applicant's

argument does not take into account terms that are standard in the art and that has

been further recognized by applicant's own specification as having a meaning that is not

what applicant is now arguing it could mean.

      Applicant argues that Campbell does not teach <u>responsive to determining that</u>

<u>there is a match between the one or more EUNs and the authorized EUN, configuring</u>

<u>the tuner to tune to the first selected service</u>. Applicant states that in Campbell's

invention, the tuner "tunes" to the service and then performs a comparison. The

examiner respectfully notes that the broadest yet reasonable definition of tuning is "to

adjust for proper functioning". The examiner notes that while it is true that Figure 12

shows a tuner being switched to a selected channel and then one or more comparisons

being performed, the examiner respectfully submits that this is not the same thing as the

tuner being "tuned" or "adjusted for proper functioning". Proper functioning of the tuner

does not actually take place until the user can actually view a specific program on that

channel. This does not occur until step 332 after a channel code has been compared, a

tier code has been compared, a program event code has been compared, an eligibility

code has been compared and all those comparisons are positive. Recall that the tier

code is considered an entitlement unit number. Because Campbell's invention requires

the tier code comparison to be done before enabling proper access to the video/audio

feed for a specific channel, the limitation is met since one can consider tuning of the

tuner to refer to enabling proper receipt of a program.

      Applicant's arguments for claim 85 are the similar to what was presented for

claim 95 and are traversed for the similar reasons. Applicant argues that the dependent

claims are allowable due to dependency on either claim 85 or 95. Because the

arguments for claims 85 and 95 are traversed, the dependent claims are also not

allowable.

      Applicant's cancellation of claim 106 is noted and entered.

/KimYen Vu/

Supervisory Patent Examiner, Art Unit 2435